

1. EXECUTIVE SUMMARY

- 1.1 My full name is Michael Robert Campbell. I am a director of Campbell Brown Planning Limited (Campbell Brown).
- 1.2 I have been engaged by Kāinga Ora-Homes and Communities (“**Kāinga Ora**”) to provide evidence in support of its primary and further submissions on **Variation 3**. I have also been engaged by Kāinga Ora to provide evidence in support of its primary and further submissions on the three Waikato Intensification Planning Instruments (“**IPI**”), being; Hamilton City Council’s Plan Change 12 (“**PC12**”), Waipā District Council’s Plan Change 26 (“**PC26**”) and Waikato District Council’s Variation 3 (“**V3**”) to the Proposed Waikato District Plan 2022.
- 1.3 My evidence addresses recommendations of the reporting planner (“**the planner**”) within the second s42A hearing report for Variation 3, dated 15 September 2023. I note that a range of recommendations were also put forward by the planner in the original s42A report dated 19 June 2023, but that those issues related to ‘reverse sensitivity’ more generally were deferred until now, to enable the appeals process to progress¹.
- 1.4 The scope of my evidence relates specifically to section 4 of s42A report, where amendments are recommended by the planner to align with the agreed position reached by appellants to the PWDP². Those amendments relate to the proposed MRZ2-S15 ‘Building setback - sensitive land use’ standard as it relates to the *railway corridor*. My evidence also addresses associated objective MRZ2-O6 - Reverse sensitivity.
- 1.5 The key points addressed in my evidence are:
- a) I recommend amendments to the MRZ2 - S15 ‘Building setback - sensitive land use’ standard to ensure that issues of safety and access to the rail corridor are not confused with those of ‘reverse sensitivity’ in relation to other sensitive land uses.

¹ Refer para.557 of the 19 June 2023 s42A report.

² Kāinga Ora is a s274 party to those appeals, outlined by the planner at section 4 of the s42A report.

- b) I recommend amendments to Objective MRZ2 - O6 for the same reason.
- c) I do not consider corresponding standards under the General Residential zone ('GRZ') as those provisions are not related to a 'relevant residential zone' or 'urban environment' to which the IPI process relates. I agree with the planner that those related provisions would be appropriately addressed through the PWDP appeals process.

1.6 The recommended amendments will align the MRZ2 chapter provisions with the agreed position that has been reached between Kāinga Ora and KiwiRail, as outlined at sections 4.2 and 4.3 of the s42A report. I also consider that the proposed amendments will appropriately distinguish matters of discretion between effects on access and safety, compared to wider considerations around reverse sensitivity for 'sensitive land uses'.

2. INTRODUCTION

- 2.1 I have outlined my qualifications and experience in my primary statement of evidence dated 4 July 2023, in relation to the first hearing for Variation 3.
- 2.2 I reconfirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence.

3. SETBACK FROM THE DESIGNATED BOUNDARY OF THE RAILWAY CORRIDOR (MRZ2-S15)

- 3.1 Kāinga Ora sought the deletion³ of the MRZ-S14⁴ setback standards under (a)(i), (ii) and (ii) on the basis that reverse sensitivity effects should be managed at source.

³ SUB 106.3, 106.37; FS 217.42, 217.43, 217.45, 217.47, 217.48, 217.49

⁴ Due to amendments through the earlier hearing, this standard is now referenced as 'S15'.

- 3.2 As noted earlier, discussions have since taken place between Kiwi Rail, Waka Kotahi and Kāinga Ora which is outlined succinctly by the planner at section 4.2 of the s42A report.
- 3.3 I am advised by Kāinga Ora that those amendments recommended by the planner reflect the discussions that have taken place to-date. In particular, a reduction in the required minimum setback from 5m to 2.5m from the designated boundary of the railway corridor.
- 3.4 I support those amendments and the analysis undertaken by the reporting planner, as well as the identification of the reduced building setback as a qualifying matter. As an aside, I note that the recommended amendments to the standard at paragraph 62 are not reflected in the full suite of provisions attached in Appendix A to the s42A report.
- 3.5 In my opinion, the proposed removal of the setback requirements from arterial roads, national routes and the Waikato Expressway (for the reasons outlined by the planner) focusses the MRZ2-S15 standard on 'sensitive land uses' and issues of reverse sensitivity. This is a different resource management issue to that being addressed by the 2.5m building setback from the rail corridor, which relates to 'network safety' as expressed by the matters of discretion and through the 'appeals update' at paragraph 56 of the s42A report.
- 3.6 The planner notes at paragraph 60 of the s42A report that (emphasis added in underline):

60. *In my view, the agreed provisions for the highway and rail corridor noise effects areas and vibration alert areas do not need to be implemented through the IPI on the basis that:*

- i. *They do not affect density and therefore do not need to be provided for as a qualifying matter.*
- ii. *They do not support or are not consequential on the MDRS or Policy 3 of the NPS-UD and are therefore not considered to be a related provision under s80E(i)(b)(iii) of the RMA.*

- 3.7 I agree with the above analysis and consider this renders the balance of matters of discretion under items (b) - (e) irrelevant to the consideration of effects that may arise from non-compliance with the proposed 2.5m building setback from the rail corridor. Issues associated with amenity, noise and reverse sensitivity would otherwise be managed through those ‘noise effects areas’ and ‘vibration alert areas’ to be considered through the appeals to the PWDP.
- 3.8 On that basis I recommend that the 2.5m building setback and corresponding matter of discretion for “*Rail network safety and efficiency*” be removed from the ‘sensitive land uses’ table and provided as its own permitted standard reflecting the agreed KiwiRail and Kāinga Ora position as follows⁵:

MRZ2-S15(A)	Building and structure setback – rail corridor
<p>(1) Activity status: PER Where: (a) Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 2.5m from the designated boundary of the railway corridor. (b) MRZ2-S15(A)(1)(a) does not apply to fences or structures less than 2m in height, retaining walls, poles or aerials. (c) MRZ2-S15(A)(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council’s discretion is restricted to the following matters: (a) The location, size and design of the building as it relates to the ability to safely use, access and maintain the buildings without requiring access on, above or over the rail corridor.</p> <p><i>Notification: Any restricted discretionary activity under XXZ-SX shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

- 3.9 In my opinion this will provide an efficient and effective rule framework and ensure there is no conflation of effects assessment through unrelated matters of discretion.

⁵ I understand that my recommended amendments align with ongoing discussions between the parties. The exact wording of my recommended amendments may be subject to minor changes should final agreement be reached prior to the hearing.

4. OBJECTIVE MRZ2-O6 – REVERSE SENSITIVITY

- 4.1 Kāinga Ora sought⁶ amendments to the MRZ2-O6 objective to remove reference to ‘avoidance’ of reverse sensitivity effects as in many instances such effects cannot be fully avoided.
- 4.2 The reporting planer recommended in the s42A report dated 19 June 2023 that the objective be amended accordingly⁷. I support those amendments.
- 4.3 Further amendments have been made to account for bespoke provisions within the Havelock Precinct which limit building heights in response to potential reverse sensitivity effects. While I find no specific reference to the amendments that are included in Appendix A, the Havelock Precinct is discussed at section 5.2 of the s42A report dated 15 September 2023.
- 4.4 I recommend that the proposed reference to ‘building heights’ within the context of MRZ2-O6’s focus on ‘reverse sensitivity’, be amended. In my opinion, the use of building height restrictions as a method to address potential reverse sensitivity effects relates specifically to the Havelock Precinct and the specific standards under PREC4-S1, PREC4-S2 and PREC4-S3. This purpose is expressed through the proposed inclusion of policies MRZ2-P11 (2) which seeks to “*Manage potential reverse sensitivity effects by restricting building heights within the Area 1 height restriction area in the Havelock Precinct*”.
- 4.5 Similar to my reasoning outlined in section 3 of my evidence, I consider there a risk that the management of ‘building heights’ will be interpreted as applying across all ‘building setback’ standards related to ‘sensitive land uses’, regardless of whether located in a precinct or not.
- 4.6 I therefore recommend the following amendments (shown in [blue](#)):

MRZ2-O6 Reverse sensitivity.

~~Avoid or m~~Minimise the potential for reverse sensitivity by managing the location and design of sensitive activities through:

⁶ SUB 106.28; FS 217.44,

⁷ Refer para.193 to 194 of the s42A report dated 19 June 2023.

- (a) The use of building setbacks ~~and building heights~~; and
- (b) The design of subdivisions and development, ~~and~~
- (c) The use of building height restrictions in the Havelock Precinct.

4.7 In my opinion this will provide an efficient and effective rule framework and ensure there is no conflation of effects assessment, as well as a clear policy cascade.

5. CONCLUSIONS

5.1 In my opinion, the amended provisions as set out in my evidence will be efficient and effective in achieving the purpose of the RMA, will ensure consistency with those appeals currently against the PWDP, and will provide a clear rule framework that gives effect to the objectives and policies of the PWDP as amended by Variation 3.



Michael Robert Campbell

20 October 2023